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December 15, 2006

VIA FACSIMILE & U.S. MAIL

Comments on Class II Classification
Standards
National Indian Gaming Commission
Attn: Penny Coleman
1441 L Street, Suite 9100
Washington, DC 20005

Re: Supplemental Comments on Proposed Class II Classification Standards

Dear Ms. Coleman:

These supplemental comments are being submitted on behalf of the Lytton Band of Pomo Indians (Tribe) in regard to the National Indian Gaming Commission's (NIGC) proposed classification standards for Class II gaming (Classification Standards). These comments are intended as a supplement to concerns raised by the Tribe during its meetings with the NIGC, the public hearing, and its initial comment letter dated November 15, 2006.

The Tribe believes it is necessary to supplement its previous concerns in light of the NIGC's recent working draft that the Tribe received just prior to the recent Class II Advisory Committee meeting in Washington, D.C. While the Tribe understands that the current working draft of the Classification Standards is not yet the NIGC's official position, but is merely intended to provide feedback, the Tribe feels it is necessary to respond to some of the changes contained in this document.

Sections 546.9(e)

The Tribe objects to the inclusion of any additional language in this Section which would permit "a tribe or a state" to object to a game certification. To include such language opens the certification process to unnecessary and unwarranted intrusion by third parties.

With reference to the inclusion of states, the Tribe requests that the NIGC remove any provision which permits a state to object to a game certification or any other matter relating to Class II gaming. First and foremost, allowing states to have any authority over, or involvement in, Class II gaming is a violation of the Indian Gaming Regulatory Act (IGRA). The IGRA

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specifically provides that "any class II gaming on Indian lands shall continue to be within the jurisdiction of the Indian tribes" subject only to supervision by the NIGC. Nowhere does the IGRA authorize a state to regulate or have any involvement in Class II gaming. By permitting a state to oppose a game certification, the NIGC is giving the states powers that they do not possess and were not granted under IGRA. Thus the Classification Standards seek to impose standards and regulations which goes beyond the scope of IGRA. Second, permitting a state to object to a game certification gives the state an unfair advantage and will allow it to prevent a tribe from operating a casino. As the NIGC is aware, the State of California has refused to ratify a gaming compact with the Tribe. Thus, the Tribe is entirely dependent on Class II gaming. In addition, the Tribe is continually faced with the potential closure of its Casino due to an unfavorable political environment. Simply put, life is already difficult for the Tribe. If the State of California is given the authority to object to a game certification, the state will have the power to delay or completely prevent Lytton from conducting any type of gaming. Such result is untenable and extremely detrimental to the Tribe.

Finally, this Section should not allow "a tribe" to object to a game certification. While the Tribe is obviously in favor of allowing tribes to object to a testing laboratory's refusal to certify a game, this provision as written will allow any tribe to object to the certification of any game. Thus, a competitor tribe could object to a game certification simply as a means to delay or prevent another tribe's operation of a game. While the Tribe would like to believe that another Tribe would not behave in this manner, all possibilities must be considered.

The Tribe therefore suggests that Section 549.6(c) be modified to remove any reference to states and only permit tribes to object to a testing laboratory's refusal to certify a game.

Section 546.6

The Tribe appreciates that the NIGC is considering a change to portions of Section 546.6. As the Tribe noted in its previous comments, it has serious concerns regarding the requirements of both Section 546.6(b) and (l).

It is the Tribe's understanding that the NIGC is now considering the option of permitting player's to purchase additional patterns for additional wagers. The Tribe believes that this is a step in the right direction, but points out that this change does not go far enough. Even with this change, Section 546.6(b) and (l), as was discussed more thoroughly in our earlier comment letter, will severely limit the Tribe's ability to offer various game themes. Thus, the Tribe believes that any of the proposed prohibitions relating to common pays, paybacks, or probabilities should be removed.

Section 546.10(e)(1)

The Tribe appreciates the NIGC's efforts to extend the grandfathering period; however, the twelve (12) month timeline set out in the working draft is still insufficient to allow tribes and manufacturers to actually redesign, manufacture, certify and implement games in conformance with the proposed regulations, as such, the NIGC should propose a more realistic time period. In

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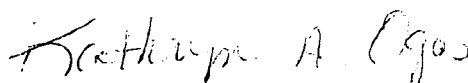
light of the timeframes suggested by Mr. Meister and the game manufacturers as necessary for completion of the process, the Tribe would suggest a minimum of thirty-six (36) months.

The Classification Standards are a "Major Rule"

As a final note, the Tribe believes that, as a result of the conclusions in the economic impact study prepared by Allen Meister, the NIGC must reclassify the Classification Standards as a "significant regulatory action" under the Unfunded Mandates Act and undertake, among other things, a cost/benefit analysis.

The Tribe appreciates the opportunity to submit these supplemental comments on the Classification Standards.

Sincerely,



Kathryn A. Ogas
Attorney for the Lytton Band of
Pomo Indians

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GENERAL INFORMATION

Date/Time: Dec. 15, 2006 (10:00 a.m. PST)

Pages (Includes Cover): 4

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Message: Enclosed are Supplemental Comments of the Lytton Band of Pomo Indians
to the Proposed Class II Classification Standards

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